

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

November 14, 2008

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

OAHU

Consent to Mortgage, Landlord's Lien Waiver, Access Agreement, Estoppel and Consent; General Lease No. S-3709, Waimanalo, Koolaupoko, Oahu, Tax Map  
Key: (1) 4-1-014:013.

BACKGROUND:

On July 24, 2008, the Chairperson consented to the mortgage between Attractions Hawaii, the sublessee of GL3709 as mortgagor, and GE Business Financial Services Inc. (GE) as the mortgagee. A copy of the approved submittal is attached as Exhibit A.

When the consent document was to be formally executed, the attorney of GE presented the State with the document titled "Landlord's Lien Waiver, Access Agreement, Estoppel and Consent" (Agreement). A copy of the Agreement is attached as Exhibit B. Staff reviewed the Agreement and reports the findings on the major provisions in the following paragraphs.

REMARKS:

Pursuant to the Agreement, the State, as the master landlord of GL3709 will subordinate unto GE any contractual landlord's lien, right, except reversionary rights, against the personal property of the sublessee. The personal property includes all inventory, general intangibles, accounts, goods, machinery, equipment, furniture, and fixtures. This provision does not involve any interest relating to the lease. In fact, the State's reversionary right is expressly excluded from the Agreement.

Further, the Agreement requires the State to certify the compliance of the master lease, which includes no notice of default is outstanding, no alteration to the master lease except as noted in the Agreement etc. Staff reports that the sublessor is in compliance with the terms and conditions of GL 3709.

The Agreement allows GE to access the sublease premises to remove the sublessee's personal property prior to the occurrence of a default or during the cure period of a notice of default. Again, this provision relates to the personal property only, not the interest of the land under GL3709.

In case the sublease is terminated, the State is required to consent to a new sublease between the sublessor and GE or entity named by GE for the remaining term of the sublease, and further subject to the terms and conditions of the sublease. If GE decides

not to exercise this right, it has the right to remove the sublessee's personal property. Staff responds that since the new sublease will be identical to the current one regarding the terms and conditions, the State's interest in the master lease should not be affected. Pursuant to paragraph 5b on page 4 of the Agreement, the State shall use reasonable efforts to deliver each notice and all correspondence delivered to the sublessee in connection with the master lease to GE. Further, any notice of default required to be given to the sublessee shall be delivered to GE too. To avoid any possible confusion in the future, staff suggests that this paragraph be replaced the standard condition regarding "Notice" as noted in the Recommendation Section.

Upon the Board approval, the document will be sent to the Department of the Attorney General for review and approval.

RECOMMENDATION: That the Board authorize the Chairperson to execute the above referenced agreement, subject to the following:

1. Replace paragraph 5b of the Agreement by the following:

"Any notice, demand, request, consent, approval, or communication that either party desires or is required to give the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail or as otherwise specifically provided herein. Any notice, demand, request, consent, approval, or communication that either part desires or is required to give to the other part shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within forth-eight (48) hours from the time of mailing if mailed as provided in this paragraph.

Lessor: Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawaii 96813

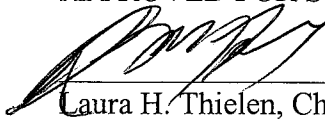

GE: [to be provided]"

2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL

  
Laura H. Thielen, Chairperson 

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

July 18, 2008

Chairperson of the Board  
of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

OAHU

Consent to Mortgage, General Lease No. S-3709, Attractions Hawaii, Sublessee,  
Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-014:013.

APPLICANT AND REQUEST:

Attractions Hawaii, Mortgagor, requesting consent to mortgage from GE Business  
Financial Services, Inc., Mortgagee, in an amount not to exceed \$261,500,000.00.

LEGAL REFERENCE:

Section 171-22, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, identified by  
Tax Map Key: (1) 4-1-014:013, as shown on the attached map labeled Exhibit A.

AREA:

49.599 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CHARACTER OF USE OF MASTER LEASE:

Constructing, maintaining and operating a scientific research facility for the study of  
marine life and a public exhibiting facility of marine life purposes.

**EXHIBIT "A"**

TERM OF MASTER LEASE:

65 years, commencing on October 21, 1962 and expiring on October 20, 2027. Last rental reopening occurred on October 21, 2002; next rental reopening is scheduled for October 21, 2022.

ANNUAL RENTAL OF MASTER LEASE:

\$91,200.00 or 1.5% of gross revenue, whichever is greater, due in semi-annual payments.

USE OF LOAN PROCEEDS:

For the acquisition of Attractions Hawaii by holding company. See Remarks Section.

REMARKS:

In 1972, the Board approved the Amended Construction and Operation Agreement (sublease) between Oceanic Foundation (now known as Oceanic Institute) and Sea Life, Inc. Currently, Attractions Hawaii is the current holder of the sublease.

Recently, Festival Fun Parks, LLC became the parent company of Attractions Hawaii. The acquisition of Attractions Hawaii, and other amusement parks is financed by the line of credit obtained by the parent company. In addition, a portion of the funds was used to repay existing debts assumed in connection with the acquisition of Attractions Hawaii, and part of the line credit is intended for the operating cost of various parks. A substantial portion of the properties owned or leased by the parent company has been mortgaged to secure the loans. The current request covers the park owned by the parent company in the State.

There is no current default regarding the master lease.

Staff did not solicit comments from other agencies since there is no change in the use of the leases premise. There are no other pertinent issues or concerns. Staff has no objection to the request.

RECOMMENDATION:

That the Chairperson consent to the mortgage between Attractions Hawaii, Mortgagor, and GE Business Financial Services, Inc., Mortgagee, subject to the following:

1. The loan proceeds shall be used for the purposes as stated in "Use of Loan Proceeds" above. The Sublessee shall maintain records of loan expenditures which may be inspected by the Department;

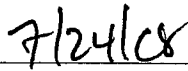

2. The standard terms and conditions of the most current consent to mortgage form, as may be amended from time to time;
3. Review and approval by the Department of the Attorney General; and
4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

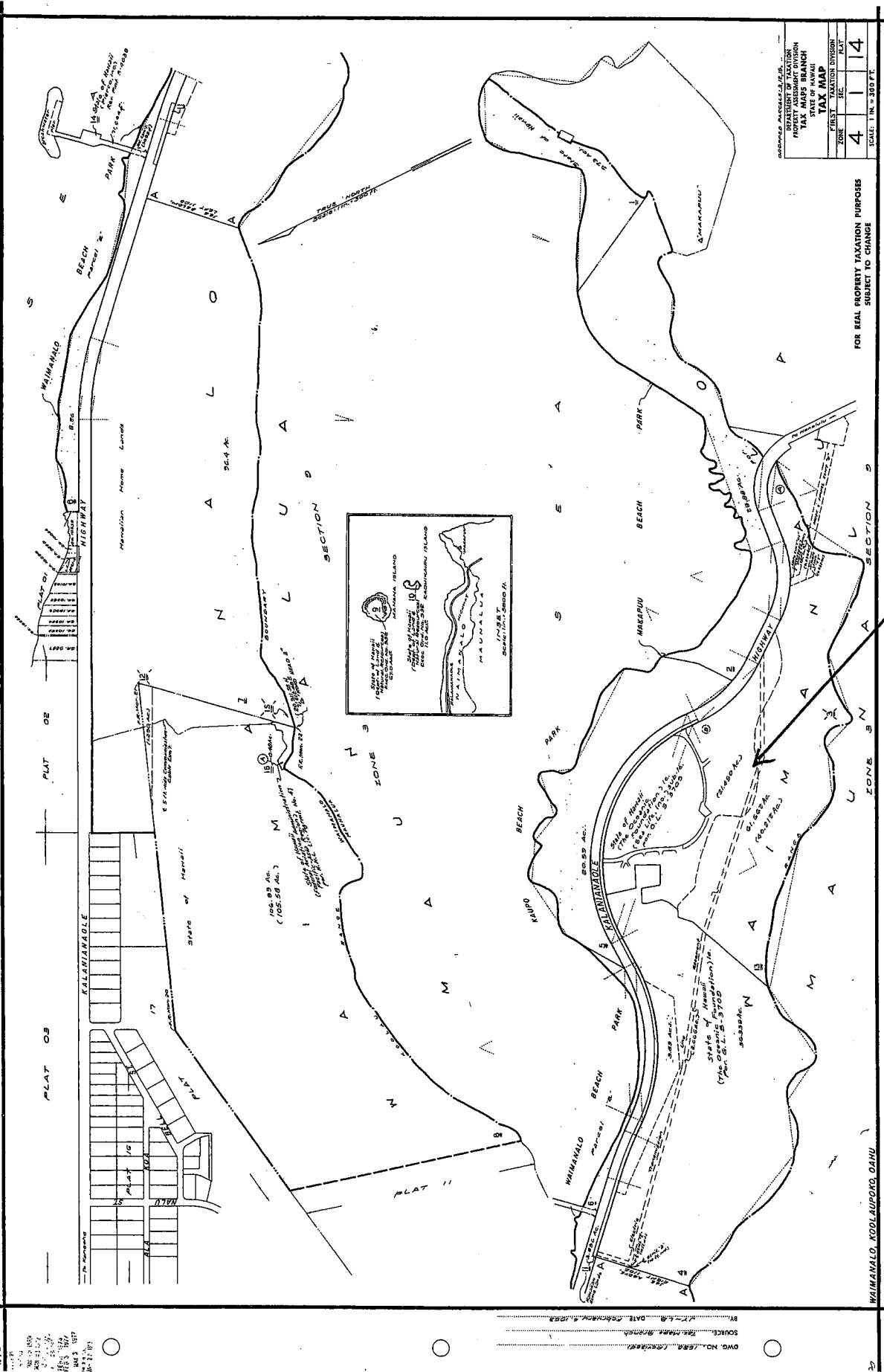
Respectfully Submitted,

  
Barry Cheung  
District Land Agent

 APPROVED/DISAPPROVED:

  
\_\_\_\_\_  
Laura H. Thielen, Chairperson

  
\_\_\_\_\_  
Date 



✓Subject Location

LAND COURT	REGULAR SYSTEM
AFTER RECORDATION, RETURN BY MAIL <input type="checkbox"/> PICK-UP <input type="checkbox"/>	
RS	

Total No. of Pages: \_\_\_\_\_

LANDLORD'S LIEN WAIVER, ACCESS AGREEMENT, ESTOPPEL AND CONSENT

LANDLORD'S LIEN WAIVER, ACCESS AGREEMENT, ESTOPPEL AND CONSENT

THIS LANDLORD'S LIEN WAIVER, ACCESS AGREEMENT, ESTOPPEL AND CONSENT (this "Agreement") is made and entered into as of \_\_\_\_\_, 2008 by and between:

A. the STATE OF HAWAII, by and through its Board of Land and Natural Resources, as described in Schedule A-1 attached hereto, having an office described in Schedule A-1 ("Landlord"); and

B. the AGENT for lenders described in Schedule A-3, having an office described in said Schedule A-3 ("Agent").

R E C I T A L S:

A. Landlord is the record title holder and owner of or holder of an interest in the real property described in Schedule A-1 (the "Real Property").

B. Landlord has leased all or a portion of the Real Property (the "Leased Premises") to OCEANIC INSTITUTE, a Hawaii nonprofit corporation, as described on Schedule A-1 ("Sublessor"), pursuant to a certain lease agreement specifically described in Schedule A-1 (collectively, and as amended, amended and restated, supplemented or otherwise modified from time to time, the "Master Lease").

C. Sublessor has subleased all or a portion of the Leased Premises (the "Subleased Premises") to ATTRACTIONS HAWAII, a Hawaii general partnership, as described on Schedule A-2 ("Sublessee"), pursuant to a certain lease agreement specifically described in Schedule A-2 (collectively, and as amended, amended and restated, supplemented or otherwise modified from time to time, the "Sublease").

D. Festival Fun Parks, LLC ("Borrower"), the financial institutions and other entities from time to time party thereto as lenders (collectively, the "Lenders") and Agent, entered into an Amended and Restated Credit Agreement dated on June 6, 2008 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), pursuant to which, among other things, the Lenders have agreed, subject to certain terms and conditions, to make certain loans to Borrower (collectively, the "Loans").

E. Sublessee is a subsidiary or other affiliate of Borrower.

F. Subessee has provided a Guaranty of the Obligations of Borrower under the Credit Agreement and will benefit from the availability of funds to Borrower pursuant thereto.

G. As security for the payment and performance of Sublessee's obligations under the Credit Agreement and the other documents evidencing and securing the Loans (collectively, the "Financing Documents"), Agent (for its benefit, the benefit of the Lenders and the benefit of the other secured parties under the Credit Agreement) has or will acquire a first lien security interest



in and lien upon all or substantially all of Sublessee's right, title and interest in and to personal property, including all inventory, general intangibles, accounts, goods, machinery, equipment, furniture and fixtures (together with all additions, substitutions, replacements and improvements to, and proceeds of, the foregoing, collectively, the "Sublessee's Personal Property"), and a first lien mortgage lien on Sublessee's leasehold interest in the Subleased Premises (as amended, restated, supplemented or otherwise modified from time to time, the "Mortgage").

H. The Agent has requested that Landlord execute this Agreement in connection with the transactions contemplated by the Financing Documents.

### A G R E E M E N T:

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord hereby represents, warrants and agrees in favor of the Agent, as follows:

1. Subordination. Landlord hereby subordinates unto the Agent (i) any contractual landlord's lien and any other landlord's lien which it may be entitled to at law or in equity against any of Sublessee's Personal Property, (ii) any and all rights granted by or under any present or future laws to levy or distrain for rent or any other charges which may be due under the Master Lease or Sublease to the Landlord against the Sublessee's Personal Property and (iii) except for any reversionary rights set forth in the Master Lease or Sublease, any and all claims, liens and demands of every kind which it has or may hereafter have against the Sublessee's Personal Property (including, without limitation, any right to include the Sublessee's Personal Property in any secured financing Landlord may become party to). Landlord acknowledges that the Sublessee's Personal Property is and will remain personal property and not fixtures even though it may be affixed to or placed on the Real Property.

2. Estoppel. To the best of Landlord's knowledge, Landlord certifies that: (a) Landlord is the landlord or lessor under the Master Lease; (b) the Master Lease is in full force and effect; (c) the Master Lease has not been modified, altered or amended (except as set forth in the recitals above); (d) Landlord's interest in the Master Lease and the Leased Premises has not been assigned or encumbered, except as reflected in the records of the Bureau of Conveyances and/or Office of the Assistant Registrar of the Land Court of the State of Hawaii; (e) there is no defense, offset, claim or counterclaim by or in favor of Landlord against Sublessor under the Master Lease or against the obligations of Landlord under the Master Lease; (f) no notice of default has been given under or in connection with the Master Lease which has not been cured, and Landlord has no knowledge of any occurrence of any other default (or circumstances that with notice or the passage of time would constitute a default) under or in connection with the Master Lease; (g) Sublessor is in possession of the Leased Premises; (h) the rights of Sublessor under the Master Lease have not been assigned to anyone, except as provided in the Sublease; (i) Sublessor is current in the payment of all rent and other sums due under the Master Lease; and (j) the Master Lease expires on the date described in Schedule A-1 and Sublessor has, pursuant to the Master Lease, the option(s), if any, to extend the Master Lease as described in Schedule A-1.

3. Waiver and Access Agreement. Landlord agrees that the Agent shall have the right to enter upon the Leased Premises and remove the Sublessee's Personal Property from the

Leased Premises at any time prior to the occurrence of a default under the Sublease and, after the occurrence of such a default, during the Standstill Period (as hereinafter defined), provided, that the Agent shall repair any damage arising from such removal. Landlord further agrees that, at any time prior to the termination of a Standstill Period, Landlord will not (i) remove from the Leased Premises any of the Sublessee's Personal Property unless and to the extent the Master Lease specifically provides that, upon the expiration or other termination of the term thereof, such Sublessee's Personal Property reverts to Landlord or (ii) hinder Agent's actions in removing Sublessee's Personal Property from the Leased Premises subject to the clause (i) of this Section 3 or Agent's actions in otherwise enforcing its security interest in the Sublessee's Personal Property. Landlord acknowledges that the Agent shall have no obligation to remove the Sublessee's Personal Property from the Leased Premises, and nothing herein shall be interpreted as Agent's agreement to do so.

4. Consent. Landlord consents to the Mortgage and assignment by Sublessee of its leasehold and other interests under the Sublease to Lender as security for the Loans, and Agent's exercise of remedies under the Mortgage.

5. Lender Protections.

a. Landlord acknowledges and agrees that Sublessee's granting of a security interest in the Sublessee's Personal Property and the granting of a mortgage lien in and upon Sublessee's leasehold interest in the Subleased Premises, in each case, in favor of the Agent (provided such security interest and lien do not encumber, nor attempt to encumber, Landlord's fee interest in the real property underlying the Master Lease or Sublease and, except as otherwise specifically provided in this Agreement, shall be subordinate to the Master Lease and each of Landlord's rights thereunder) shall not constitute a default under or a breach of the Master Lease nor permit Landlord to terminate the Master Lease or re-enter or repossess the Leased Premises or otherwise be the basis for the exercise of any remedy by Landlord, and Landlord hereby expressly consents to the granting of such security interests.

b. Landlord shall use reasonable efforts to deliver a copy of each notice and all correspondence delivered to Sublessee pursuant to or in connection with the Master Lease to Agent at the address set forth in Schedule A-3 attached hereto concurrently with Landlord's notice to Sublessee, and in the same manner required under the Master Lease; provided, however, that Landlord shall deliver to Agent as aforesaid any notice of default under the Master Lease required to be given to Sublessee pursuant to that certain Lessor's Consent to Amended Sublease from The Oceanic Foundation to Sea Life, Incorporated, dated May 18, 1973, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 9158, at Page 220, and also as Document No. 73-36704.

c. Notwithstanding anything to the contrary contained in this Agreement or the Master Lease, in the event of a default by Sublessor under the Master Lease, Landlord agrees that it shall not exercise any of its remedies against Sublessor provided in favor of Landlord under the Master Lease or at law or in equity until,

in the case of a monetary default, the date which is thirty (30) days beyond the date Landlord delivers written notice of such monetary default to Agent, and in the case of a non-monetary default, the date which is thirty (30) additional days beyond the period allowed to Sublessor under the Master Lease (provided Landlord delivers written notice of such non-monetary default to Agent concurrently with notice to Sublessor) (such aforementioned periods being referred to as the "Standstill Period"); provided, however, if such non-monetary default by its nature cannot reasonably be cured by the Agent within the period provided above, the Agent shall have such additional period of time as may be reasonably necessary to cure such non-monetary default, so long as the Agent commences such curative measures within the period provided above for non-monetary defaults and thereafter proceeds diligently to complete such curative measures. The Agent, in its discretion, shall have the right to cure any such default, including a monetary default, and Landlord shall accept any such cure by such the Agent, Sublessor or Sublessee, but in no event shall Agent be obligated to cure any default (including a monetary default), and nothing herein shall be interpreted as Agent's agreement to do so. If the Agent, Sublessor or Sublessee or any other person cures any such default, then Landlord shall rescind the notice of default.

6. Nondisturbance. In the event of a termination, disaffirmance or rejection of the Sublease for any reason, including, without limitation, pursuant to any laws (including any bankruptcy or other insolvency laws) by Sublessee or the termination of the Sublease for any reason by Sublessor, Landlord will consent to a new sublease of the Subleased Premises executed within thirty (30) days of such event between Sublessor and Agent, in the name of the Agent (or a designee to be named by the Agent at the time), for the remainder of the term of the Sublease (including options for unexercised options to extend) and upon all of the terms and conditions thereof, or, if the Agent shall elect not to exercise such right (such election to be made by Agent at its sole discretion), Landlord will give the Agent the right to enter upon the Subleased Premises during such thirty (30) day period for the purpose of removing all or any portion of Sublessee's Personal Property therefrom.

7. No Default. Notwithstanding any provision to the contrary contained in the Master Lease, any acquisition of Sublessee's interest by Agent, its nominee, or the purchaser at any foreclosure sale conducted by Agent shall not create a default under, or require Landlord's consent under, the Master Lease.

8. Successors. The terms and provisions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Landlord (including, without limitation, any successor owner of the Real Property) and the Agent. Landlord will disclose the terms and conditions of this Agreement to any purchaser or successor to Landlord's interest in the Leased Premises. Notwithstanding that the provisions of this Agreement are self-executing, Landlord agrees, upon request by Agent, to execute and deliver a written acknowledgment confirming the provisions of this Agreement in form and substance reasonably satisfactory to Agent.

9. Notices. All notices to any party hereto under this Agreement shall be in writing and sent to such party at its respective address set forth in Schedule A-1 or Schedule A-3, as the

case may be (or at such other address as shall be designated by such party in a written notice to the other party complying as to delivery with the terms of this Section 9) by certified mail, postage prepaid, return receipt requested or by overnight delivery service.

10. Duration. The provisions of this Agreement shall continue in effect until Landlord shall have received written certification from Agent that the Loans and all other obligations owing to Agent and Lenders under the Financing Documents have been paid in full and all of Borrower's, Sublessee's and any other guarantor's obligations under the Financing Documents related thereto have been satisfied, and Lenders shall have no further obligation to make any loans or other extensions of credit thereunder.

11. CHOICE OF LAW. THE INTERPRETATION, VALIDITY AND ENFORCEMENT OF THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE OF HAWAII.

12. Further Actions. Landlord agrees to execute, acknowledge and deliver such further instruments as Agent may reasonably request to allow for the proper recording of this Agreement (including, without limitation, a revised landlord's waiver in form and substance sufficient for recording) or to otherwise accomplish the purposes of this Agreement.

13. No Modification. Landlord agrees that, unless and until Landlord receives Notice pursuant to Section 10 above, so long as Sublessee's obligations under the Financing Documents remain outstanding and such Agent retains an interest in the Sublessee's Personal Property and/or Sublessee's leasehold interest in the Subleased Premises, no modification, alteration or amendment shall be made by Sublessor and Sublessee to the Sublease without the prior written consent of such Agent if such modification, alteration or amendment could have a material adverse effect on the value or use of the Subleased Premises or Sublessee's obligations or rights under the Sublease.

14. Miscellaneous.

a. To the extent any provisions hereof contradict or are inconsistent with the Master Lease, the terms of this Agreement shall control.

b. This Agreement may be executed in one or more counterparts, each of which shall constitute an original agreement, and all of which, taken together, shall constitute one and the same document.

c. The undersigned individual hereby certifies that he or she is duly authorized to sign, acknowledge and deliver this letter on behalf of the undersigned.

d. The undersigned acknowledges that Agent will rely on this letter in making a loan or otherwise extending credit to Borrower.

[Balance of page intentionally left blank]

IN WITNESS WHEREOF, Landlord and the Agent have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

STATE OF HAWAII, as Landlord

By: \_\_\_\_\_  
Chairperson and Member  
Board of Land and Natural Resources

And By: \_\_\_\_\_  
Member  
Board of Land and Natural Resources

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
Date

[Signature lines continue on next page]

IN WITNESS WHEREOF, Landlord and the Agent have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

GE BUSINESS FINANCIAL SERVICES INC.  
(formerly known as Merrill Lynch Business  
Financial Services, Inc.), as Administrative Agent

By: \_\_\_\_\_

Name:

Title: Its Duly Authorized Signatory

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On \_\_\_\_\_, before me appeared \_\_\_\_\_, to me personally known, who being by me duly sworn or affirmed, did say that such person executed this \_\_\_\_\_ page LANDLORD'S LIEN WAIVER, ACCESS AGREEMENT, ESTOPPEL AND CONSENT, dated \_\_\_\_\_, in the First Circuit of the State of Hawaii, as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

(Signature of Notary)  
 Print Name of Notary: \_\_\_\_\_  
 NOTARY PUBLIC, State of Hawaii  
 My commission expires: \_\_\_\_\_

STATE OF HAWAII

)

) SS.

CITY AND COUNTY OF HONOLULU

)

On \_\_\_\_\_, before me appeared \_\_\_\_\_, to me

personally known, who being by me duly sworn or affirmed, did say that such person executed this \_\_\_\_\_ page LANDLORD'S LIEN WAIVER, ACCESS AGREEMENT, ESTOPPEL AND CONSENT, dated \_\_\_\_\_, in the First Circuit of the State of Hawaii, as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

(Signature of Notary)

Print Name of Notary: \_\_\_\_\_

NOTARY PUBLIC, State of Hawaii

My commission expires:



State of \_\_\_\_\_ )  
 ) ss:  
County of \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2008 before me personally came \_\_\_\_\_ to me known, who, being by me duly sworn, did depose and say that he resides in \_\_\_\_\_; that he is the \_\_\_\_\_ of GE BUSINESS FINANCIAL SERVICES INC. (formerly known as Merrill Lynch Business Financial Services, Inc.), in and which executed the above instrument.

\_\_\_\_\_  
Notary Public

My Commission expires:

\_\_\_\_\_

[SEAL]

## SCHEDULE A-1

1. Landlord Information:

Name	State of Hawaii
Address of Landlord for notices	Board of Land and Natural Resources P. O. Box 621 Honolulu, Hawai'i 96809

2. Sublessor Information:

Name	Oceanic Institute
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3. Master Lease Information:

Master Lease including all amendments	<p>Unrecorded General Lease No. S-3709 ("Kaupo Park Lease"), dated October 19, 1962, executed by and between the State of Hawaii, by and through its Board of Land and Natural Resources, as Lessor, and Pacific Foundation for Marine Research, a Hawaii non-profit corporation, as Lessee, for a term of 65 years, commencing on October 21, 1962, and ending on and including October 20, 2027.</p> <p>All of Lessee's right, title, interest and estate in and to a portion of the premises demised by said General Lease No. S-3709, containing an area of 525,468 square feet or 12.063 acres, more or less, as more fully described therein and shown on the map attached thereto, was surrendered by that certain unrecorded instrument dated August 28, 2006, entitled "Partial Withdrawal from General Lease No. S-3709", executed by and between the State of Hawaii, by its Board of Land and Natural Resources, and Oceanic Institute, a Hawaii nonprofit corporation.</p> <p>Note: The corporate name of Pacific Foundation for Marine Research was changed to The Oceanics Foundation, pursuant to an amendment to the Charter of Incorporation filed with the Department of Treasury and Regulation of the State of Hawaii, as disclosed by instrument recorded May 3, 1963 as</p>
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	<p>Book 4507 Page 139 of the Bureau of Conveyances of the State of Hawaii.</p> <p>The corporate name of The Oceanics Foundation was changed to The Oceanic Foundation, pursuant to an amendment to the Charter of Incorporation filed with the Department of Regulatory Agencies of the State of Hawaii, as disclosed by instrument recorded November 16, 1964 as Book 4885 Page 503 of the Bureau of Conveyances of the State of Hawaii.</p> <p>The corporate name of The Oceanic Foundation was changed to The Oceanic Institute, pursuant to an amendment to the Charter of Incorporation filed with the Department of Regulatory Agencies of the State of Hawaii, as disclosed by instrument recorded March 19, 1975 as Book 10522 Page 60 of the Bureau of Conveyances of the State of Hawaii.</p> <p>Said lease is encumbered by the following:</p> <p>a. Unrecorded Construction and Operation Agreement dated April 24, 1969, executed by and between The Oceanic Foundation, an eleemosynary corporation organized under the laws of the State of Hawaii, and Makai Range, Incorporated, a Hawaii corporation. (Re: ocean engineering and undersea test facility and related facilities and services.)</p>
Master Lease expiration date	October 20, 2027
Master Lease renewal terms (if any)	None
Leased Premises (if less than entire Real Property)	Same as Real Property

Description of Real Property

GOVERNMENT LAND OF WAIMANALO

Waimanalo, Koolaupoko, Oahu, Hawaii

Beginning at the east corner of this parcel of land, on the boundary between the lands of Waimanalo and Maunaloa and on the southwesterly side of Kalanianaʻole Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MAKAPUU" being 226.82 feet North and 1609.82 feet West, as shown on Government Survey Registered Map 2832, thence running by azimuths measured clockwise from True South: --

Along top of main ridge of Koolau Range, along L.C.Aw. 7713 Apana 30 to V. Kamamalu (Land of Maunaloa) for the next 12 courses, the direct azimuths and distances between points on said main ridge being:

- |     |   |     |  |
|-----|---|-----|--|
| 1.  | 92°   | 09' | 483.40 feet;   |
| 2.  | 59°   | 35' | 500.00 feet;   |
| 3.  | 136°  | 55' | 690.00 feet;   |
| 4.  | 96°   | 55' | 490.00 feet;   |
| 5.  | 159°  | 00' | 250.00 feet;   |
| 6.  | 109°  | 50' | 370.00 feet;   |
| 7.  | 155°  | 45' | 350.00 feet;   |
| 8.  | 127°  | 15' | 1100.00 feet;  |
| 9.  | 81°   | 15' | 580.00 feet;   |
| 10. | 150°  | 20' | 370.00 feet;   |
| 11. | 109°  | 10' | 380.00 feet;   |
| 12. | 154°  | 20' | 1180.00 feet;  |
| 13. | 223°  | 04' | 684.66 feet along the remainder of the Hawaiian Home Land of Waimanalo;        |
| 14. | 313°  | 04' | 557.15 feet along the southwest side of Kalanianaʻole Highway (100 feet wide); |
| 15. | Thence along the southwest side of Kalanianaʻole Highway (100 feet wide) on a curve to the right having a radius of 2799.93 feet, the chord azimuth and distance being: |     |  |
|     | 316°  | 32' | 338.61 feet;   |

16. 320° 00' 107.05 feet along the southwest side of Kalaniana'ole Highway (100 feet wide);
17. Thence along the southwest side of Kalaniana'ole Highway (100 feet wide) on a curve to the left having a radius of 1259.01 feet, the chord azimuth and distance being:  
293° 32' 1122.22 feet;
18. 267° 04' 194.87 feet along the southwest side of Kalaniana'ole Highway (100 feet wide);
19. Thence along the southwest side of Kalaniana'ole Highway (100 feet wide) on a curve to the right having a radius of 1081.28 feet, the chord azimuth and distance being:  
314° 01' 1580.31 feet;
20. 0° 58' 49.80 feet along the southwest side of Kalaniana'ole Highway (100 feet wide);
21. Thence along the southwest side of Kalaniana'ole Highway (100 feet wide) on a curve to the left having a radius of 884.02 feet, the chord azimuth and distance being:  
341° 29' 589.70 feet;
22. 322° 00' 340.41 feet along the southwest side of Kalaniana'ole Highway (100 feet wide);
23. Thence along the southwest side of Kalaniana'ole Highway (100 feet wide) on a curve to the left having a radius of 702.27 feet, the chord azimuth and distance being:  
298° 30' 560.06 feet;
24. 275° 00' 256.88 feet along the southwest side of Kalaniana'ole Highway (100 feet wide);
25. Thence along the southwest side of Kalaniana'ole Highway (100 feet wide) on a curve to the right having a radius of 345.28 feet, the chord azimuth and distance being: 303° 32' 48" 330.00 feet to the point of beginning and containing an AREA OF 118.0 ACRES.

TOGETHER with suitable easements under and across Kalaniana'ole Highway and under and across Kaupo Beach Park to the ocean for the pumping and discharge of sea water as required for the operation of the exhibiting and research facilities, such easements to be determined as to size and exact location by engineering requirements and not to exceed the

minimum area actually necessary for the purpose; PROVIDED, that installation and utilization of such permitted facilities in subject easements shall be effected with the minimum possible interference with the utilization of said Kalaniana'ole Highway and Kaupo Beach Park for their respective purposes and with the approval of the State Department of Transportation, Highways Division, and the City and County of Honolulu.

EXCEPTING THEREFROM that certain parcel of land described in the unrecorded instrument dated August 28, 2006, entitled "Partial Withdrawal from General Lease No. S-3709", by survey dated May 5, 2006 of Glenn J. Kodani, Land Surveyor, Survey Division, Department of Accounting and General Services, State of Hawaii, as follows:

Withdrawal Portion of General Lease S-3709 to the Oceanic Institute

Waimanalo, Koolaupoko, Oahu, Hawaii

Being a portion of the Government (Crown) Land of Waimanalo designated as Hawaiian Home Land by Section 203 of the Hawaiian Homes Commission Act, 1920 conveyed to the State of Hawaii by the Hawaiian Homes Commission by exchange deed dated January 8, 1962 and recorded in Liber 4265, Pages 425-455 (Land Office Deed S-18686).

Beginning at the east corner of this parcel of land, on the boundary between the lands of Waimanalo and Maunalua and on the southwest side of Kalaniana'ole Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MAKAPUU POINT" being 186.85 feet North and 1,611.31 feet West, thence running by azimuths measured clockwise from True South:

Along the top of the main ridge of Koolau Range, along R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu for the next three (3) courses, the direct azimuths and distances between points on said top of the main ridge being:

1.     92°         09'             483.40 feet;
2.     59°         35'             500.00 feet;
3.     136°        55'             690.00 feet;
4.     140°        00'             260.00 feet along the remainder of General Lease S-3709 to  
                                  the Oceanic Institute;
5.     220°        00'             432.09 feet along the remainder of General Lease S-3709 to  
                                  the Oceanic Institute;
6.     Thence along the south side of Kalaniana'ole Highway on a curve to the left, with a radius  
                                  of 884.02 feet, the chord azimuth and distance  
                                  being:  
                                  324°     20'     56"     72.46 feet;

7. 322° 00' 340.41 feet along the south side of Kalanianaʻole Highway;
8. Thence along the south side of Kalanianaʻole Highway on a curve to the left with a radius of 702.27 feet, the chord azimuth and distance being:  
298° 30' 560.06 feet;
9. 275° 00' 256.88 feet along the south side of Kalanianaʻole Highway;
10. Thence along the south side of Kalanianaʻole Highway on a curve to the right with a radius of 345.28 feet, the chord azimuth and distance being:  
303° 32' 48" 330.00 feet,

to the point of beginning and containing an area of 525,468 square feet or 12.063 acres, more or less.

END OF SCHEDULE A-1

SCHEDULE A-2

1. Sublessor Information:

Name	Oceanic Institute
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2. Sublessee Information:

Name	Attractions Hawaii
Address of Sublessee for notices	4590 MacArthur Blvd Suite 400 Newport Beach, CA 92660 ATTN: Todd Wulffson

3. Sublease Information:

Sublease including all amendments	<p>That certain unrecorded Construction and Operation Agreement ("Sublease") dated December 17, 1963, made by and between The Oceanics Foundation, an eleemosynary corporation organized under the laws of the State of Hawaii, and Sea Life, Incorporated, a Hawaii corporation, as amended by that certain unrecorded Amendment to Construction and Operation Agreement dated May 18, 1973, effective as of January 1, 1972, as disclosed by instrument recorded May 18, 1973 as Book 9158 Page 211 of the Bureau of Conveyances of the State of Hawaii.</p> <p>Said Sublease as amended, demised that certain portion of the premises demised in General Lease No. S-3709, described as Area 1 (containing an area of 61.662 acres), as more fully described therein and shown on the map attached thereto.</p> <p>Lessor's Consent to Amended Sublease, recorded May 18, 1973 as Book 9158 Page 220 of the Bureau of Conveyances of the State of Hawaii.</p> <p>Said Sublease was assigned thru mesne to Attractions Hawaii, a Hawaii general partnership, by that certain Assignment of Sublease; Consent by Sublessor, recorded July 19, 1991 as Regular System Document No. 91-097212 in the Bureau of Conveyances of the State of Hawaii.</p> <p>Consent by Lessor Under General Lease No. S-3709 to</p>
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	Assignment of Sublease, recorded July 19, 1991 as Regular System Document No. 91-097213 of the Bureau of Conveyances of the State of Hawaii.
Sublease expiration date	December 31, 1992
Sublease renewal terms (if any)	January 1, 1993 – December 31, 2002 January 1, 2003 – December 31, 2012 January 1, 2013 – December 31, 2022 January 1, 2023 – October 20, 2027
Subleased Premises (if less than entire Real Property)	See Description of Subleased Premises below.

### Description of Subleased Premises

#### AREA 1

Land situated on the southerly side of Kalaniana'ole Highway

At Waimanalo, Koolau, Oahu, Hawaii  
Being a Portion of Government Land of Waimanalo  
(General Lease No. S-3709)

Described as per survey of Haruo Shigeoka, Registered Professional Land Surveyor No. 2279, as follows:

Beginning at the East corner of this parcel of land, on the boundary between the lands of Waimanalo and Maunaloa and on the Southwesterly side of Kalaniana'ole Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MAKAPUU" being 226.82 feet North and 1,609.82 feet West as shown on Government Survey Registered Map 2832 and running by azimuths measured clockwise from True South:

Following along top of main ridge of Koolau Range, along L. C. Aw. 7713 Apana 30 to V. Kamamalu (Land of Maunaloa) for the next eight (8) courses, the direct azimuths and distances between points being:

1.     92°            09'            483.40 feet;
2.     59°            35'            500.00 feet
3.     136°          55'            690.00 feet;
4.     96°            55'            490.00 feet;
5.     159°          00'            250.00 feet;

6.	109°	50'		370.00 feet;
7.	155°	45'		350.00 feet;
8.	127°	15'		1,100.00 feet;
9.	247°	33'	10"	719.39 feet along Area 2, along remainder of Government Land of Waimanalo;
10.	224°	00'		100.00 feet along Area 2, along remainder of Government Land of Waimanalo;
11.	286°	00'		60.00 feet along Area 2, along remainder of Government Land of Waimanalo;
12.	239°	20'		76.00 feet along Area 2, along remainder of Government Land of Waimanalo;
13.	228°	20'		61.00 feet along Area 2, along remainder of Government Land of Waimanalo;
14.	189°	10'		102.00 feet along Area 2, along remainder of Government Land of Waimanalo;
15.	207°	40'		49.00 feet along Area 2, along remainder of Government Land of Waimanalo;
16.	294°	00'		111.64 feet along Area 2, along remainder of Government Land of Waimanalo;
17.	15°	40'		136.00 feet along Area 2, along remainder of Government Land of Waimanalo;
18.	296°	25'		146.80 feet along Area 2, along remainder of Government Land of Waimanalo;
19.	204°	45'		171.08 feet along Area 2, along remainder of Government Land of Waimanalo;
20.	110°	35'		173.00 feet along Area 2, along remainder of Government Land of Waimanalo;
21.	192°	30'		220.51 feet along Area 2, along remainder of Government Land of Waimanalo;

Thence running along the Southwesterly side of Kalaniana'ole Highway on a curve to the right with a radius of 1,081.28 feet, the chord azimuth and distance being:

22. 322° 38' 30" 1,341.05 feet;

23. 00° 58' 49.80 feet along the Southwesterly side of Kalaniana'ole Highway;

Thence running along the Southwesterly side of Kalaniana'ole Highway on a curve to the left with a radius of 884.02 feet, the chord azimuth and distance being:

24. 341° 29' 589.70 feet;

25. 322° 00' 340.41 feet along the Southwesterly side of Kalaniana'ole Highway;

Thence running along the Southwesterly side of Kalaniana'ole Highway on a curve to the left with a radius of 702.27 feet, the chord azimuth and distance being:

26. 298° 30' 560.06 feet;

27. 275° 00' 256.88 feet along the Southwesterly side of Kalaniana'ole Highway;

Thence running along the Southwesterly side of Kalaniana'ole Highway on a curve to the right with a radius of 345.28 feet, the chord azimuth and distance being:

28. 303° 32' 48" 330.00 feet to the point of beginning and containing an area of 61.662 acres, more or less.

EXCEPTING THEREFROM that certain parcel of land described in the unrecorded instrument dated August 28, 2006, entitled "Partial Withdrawal from General Lease No. S-3709", by survey dated May 5, 2006 of Glenn J. Kodani, Land Surveyor, Survey Division, Department of Accounting and General Services, State of Hawaii, as follows:

Withdrawal Portion of General Lease S-3709 to the Oceanic Institute

Waimanalo Koolaupoko, Oahu, Hawaii

Being a portion of the Government (Crown) Land of Waimanalo designated as Hawaiian Home Land by Section 203 of the Hawaiian Homes Commission Act, 1920 conveyed to the State of Hawaii by the Hawaiian Homes Commission by exchange deed dated January 8, 1962 and recorded in Liber 4265, Pages 425-455 (Land Office Deed S-18686).

Beginning at the east corner of this parcel of land, on the boundary between the lands of

Waimanalo and Maunalua and on the southwest side of Kalanianaʻole Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MAKAPUU POINT" being 186.85 feet North and 1,611.31 feet West, thence running by azimuths measured clockwise from True South:

Along the top of the main ridge of Koolau Range, along R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu for the next three (3) courses, the direct azimuths and distances between points on said top of the main ridge being:

1.     92°         09'             483.40 feet;
2.     59°         35'             500.00 feet;
3.     136°        55'             690.00 feet;
4.     140°        00'             260.00 feet along the remainder of General Lease S-3709 to  
                                    the Oceanic Institute;
5.     220°        00'             432.09 feet along the remainder of General Lease S-3709 to  
                                    the Oceanic Institute;
6.     Thence along the south side of Kalanianaʻole Highway on a curve to the left, with a radius  
                                    of 884.02 feet, the chord azimuth and distance  
                                    being:  
                                    324°       20'     56"     72.46 feet;
7.     322°        00'             340.41 feet along the south side of Kalanianaʻole Highway;
8.     Thence along the south side of Kalanianaʻole Highway on a curve to the left with a radius  
                                    of 702.27 feet, the chord azimuth and distance  
                                    being:  
                                    298°       30'             560.06 feet;
9.     275°        00'             256.88 feet along the south side of Kalanianaʻole Highway;
10.    Thence along the south side of Kalanianaʻole Highway on a curve to the right with a  
                                    radius of 345.28 feet, the chord azimuth and  
                                    distance being:  
                                    303°       32'     48"     330.00 feet,

to the point of beginning and containing an area of 525,468 square feet or 12.063 acres, more or less.

END OF SCHEDULE A-2

SCHEDULE A-3

Agent Information:

Name	GE BUSINESS FINANCIAL SERVICES INC. (formerly known as Merrill Lynch Business Financial Services, Inc.), a Delaware corporation, as Administrative Agent for the benefit of the Lenders under the Credit Agreement
Address of Agent for notices	222 N. LaSalle Street, 16 <sup>th</sup> Floor, Chicago, Illinois 60601, Attn: Account Manager for Festival Fun Parks transaction.

END OF SCHEDULE A-3